

# A Student Review of FSU Gift Acceptance Policy:

## Undue Influence and Charles Koch Foundation

### Executive Summary

This report has been prepared to serve as public comment regarding the 2015 revision of Florida State University's Gift Acceptance and Counting Policy, otherwise known as [FSU Policy 8-1](#). This gift policy determines the conditions by which the FSU Foundation accepts private donations, and as such, it is the only policy able to protect the university from excessive donor influence. Violations of this policy threaten the integrity of the institution. The report outlines several necessary revisions to the gift policy where undue influence is allowed. It also finds that the agreements between the Charles Koch Foundation and the FSU Foundation stand in clear violation to current donor policy. It is through these violations that the Koch Foundation and FSU administrators went on to violate faculty governance and academic freedom. This is evidenced by never before published documents retrieved from public records requests.

Notably, this is the first critical examination of the Koch agreement in the context of the relevant university policy with which it is supposed to comply.

**Chapter 1** briefly explains the purpose of the gift acceptance and counting policy, providing background information on the Koch agreements, with links to relevant the documents.

**Chapter 2** is a survey of ineffective protections found in the current gift policy. The findings include several specific provisions where guidelines are worded ambiguously enough as to be completely ineffective.

Foremost, current gift policy was changed in 2013 so that it currently gives the Vice President for Advancement the authority to grant exceptions to any part of the gift policy. This is the university official responsible for overseeing the FSU Foundation, yet the position is currently held by the President of the FSU Foundation, Dr. Tom Jennings. As long as Dr. Jennings holds both positions, he may make agreements in violation of university policy simply through his own written permission. Coupled with the fact that President Jennings is among those who signed the 2013 Koch agreement and in doing so failing to enforce university policy, we find that any further policy decisions made without

rectifying this lack of oversight, will not be seen as acting in good faith.

It is found that FSU is choosing to follow gift guidelines of the Council for the Advancement and Support of Education (CASE) instead of following IRS regulations. CASE, a private organization for professional fundraisers, is less strict about what counts as a charitable gift. This benefits professional fundraisers whose profession relies on soliciting and counting “gifts” toward campaign goals. This raises questions about whether the Koch Foundation funding should have been designated as a tax-deductible, charitable donation. Worse, the CASE guidelines referred to in FSU’s current policy are not publicly available, as they are a proprietary “advancement product”. It is also noted that Vice President Jennings is a self-identified “respected leader” in the organization.

Throughout the gift policy, we find in vague statements like “[i]t is the preference of Florida State University that...”, or “the university discourages the acceptance of..” These are among several instances of weak language found inside of provisions that would otherwise explicitly forbid what Koch and other donors are being allowed. Several of these provisions give Vice President Jennings the specific authority to make exceptions any exceptions.

**Chapter 3** is the first critical comparison of the Koch/FSU agreements to university gift policy. We find that the Koch agreements, even in the 2013 revised version, clearly violate many provisions of the gift policy. One of the most grossly violated is section 1.1.7 which, among other things, stipulates that a “donor may not retain any explicit or implicit control over the use of a gift after acceptance by the institution”. To date, the Koch “gift” is completely revocable, with FSU’s compliance enforced through periodic monitoring by a Koch appointed three person committee. The Koch Foundation maintains de facto hiring and firing power over instructors, as well as similar defacto controls over graduate fellowships.

Other examples of explicit gift policy violations include the classification of the Koch agreement as a “gift”, despite the fact that the agreement explicitly requires services in return for continued funding. Though the FSU Foundation describes itself as a solicitor of “gifts and charitable grants from private sources [...] for which no services and/or products are required”, it is seen that the Koch agreement creates a system of performance pay for instructors and students, where scholarly activity is monitored and may be revoked at any time, with only 15 days notice. This constitutes a service that CKF monitors closely, withdrawing funding if they ever become dissatisfied.

**Chapter 4** contains the most complete account of the violations of academic policy committed by the Koch agreement, as well as several ethical problems involved in its implementation in the

Department of Economics. The chapter contains the full text of a Faculty Senate Committee report that appears to have been censored by FSU administration prior to its release in 2011. This original report contains significant findings and recommendations omitted in the “official” version, including an account of the intimidation and threats that Dean David Rasmussen and Chair Bruce Benson used as they and the Charles Koch Foundation forcibly violated several academic and ethical policies. The original version notes explicit instances where faculty governance and academic freedom are violated, in addition to the two-fold conflicts of interest.

**Chapter 5** describes some of the gift policy revisions currently being proposed by the FSU Foundation. It is found that the revision introduces more vague language that, allowing the VP for Advancement to let the biggest donors give through with less formal documentation required. We oppose revision on several grounds.

**Chapter 6** is a collection of revisions that we are proposing as part of our formal comment, and in our effort to achieve greater transparency. We propose that gift agreements be disclosed for review, posted on the FSU Foundation’s website for a 30 day comment period, before being signed. Our proposed revisions remove weak language, and other language granting excess influence to donors, or to the VP for Advancement. We also make several other recommendations regarding governance and accountability.